

JUDGE DAVID BRIONES

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO COUNTY DIVISION**

**MICHAEL BUCK,
Plaintiff,**

v.

**TERRY SOSA,
Defendant.**

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FILED
2014 DEC 17 AM 10:29
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

EP14CV0461

NOTICE OF REMOVAL

COMES NOW, TERRY SOSA, (hereinafter referred to as "Federal Defendant") acting by and through the United States Attorney for the Western District of Texas, and hereby files this Notice of Removal with this Court removing the above-entitled action now pending as Cause No. 214-00237-CV in the Justice of the Peace, Precinct Two, El Paso County, Texas, and in support of this Notice of Removal, states as follows:

1. On December 8, 2014, Plaintiff filed his Petition, as Cause No. 214-00237-CV in the Justice of the Peace, Precinct Two, El Paso County, Texas, entitled, *Michael Buck v. Terry Sosa* (hereinafter referred to as the State Court Action). Copies of all process, pleadings and other orders received by the Federal Defendant in the State Court Action are attached to this notice in accordance with 28 U.S.C. § 1446(a). (Exhibit 1).¹

2. Based on information and belief, Federal Defendant TERRY SOSA was at all relevant times, with respect to the allegations of Plaintiff's Petition, acting within the scope and course of her employment as an employee of the Department of Veterans Affairs.

3. Pursuant to 28 U.S.C. § 2679(d)(2), Federal Defendant TERRY SOSA has been certified as acting in the scope of her employment at the time of the incident from which this

¹ Exhibit 1 contains *all* papers on file with the Justice of the Peace, Precinct Two Court, including the docket sheet as of December 15, 2014.

claim arose. Under the provisions of 28 U.S.C. § 2679(d)(2), this certification conclusively establishes scope of office for purposes of removal. According to 28 U.S.C. § 2679(b)(1) and d(1), the United States is the proper party-defendant.

4 This Notice of Removal is made pursuant to the provisions of 28 U.S.C. §§ 1442, as this action is one against officers or employees of the United States.

5. Pursuant to the provisions of 28 U.S.C. § 1446(d), a Notice of Filing Notice of Removal has been filed with the Clerk of the Justice of Peace, Precinct Two, El Paso County, Texas, a true and correct copy of which is attached hereto. (Exhibit 2.)

WHEREFORE, PREMISES CONSIDERED, Defendant TERRY SOSA provides this Notice that the action now pending in the Justice of the Peace, Precinct Two, El Paso County, Texas, against Federal Defendant TERRY SOTO is removed to the United States District Court for the Western District of Texas, El Paso Division.

Respectfully submitted,

ROBERT PITMAN
UNITED STATES ATTORNEY

By:



MAGDALENA G. JARA
Assistant United States Attorney
Texas State Bar No. 10573100
700 E. San Antonio, Ste. 200
El Paso, Texas 79901
Office (915) 534-6884
Facsimile (915) 534-3490

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5, I certify that a true and exact copy of the foregoing document has been mailed on December 17, 2014, to Michael Buck, 1608 S. Tennyson Dr., Deming, NM 88030, Pro Se Plaintiff.



MAGDALENA G. JARA

EXHIBIT 1

Skip to Main Content Logout My Account Search Menu New Civil Search Refine Search Back

Location : All Courts Help

REGISTER OF ACTIONS

CASE NO. 214-00237-CV

Michael Buck vs. Terry Sosa

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§
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Case Type: Small Claims
Date Filed: 11/12/2014
Location: JP 2

PARTY INFORMATION

Lead Attorneys

Defendant Sosa, Terry

Plaintiff Buck, Michael

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS		Served	Response Due
11/12/2014	Original Petition (OCA) Doc ID# 1		
11/12/2014	Citation Sosa, Terry		12/08/2014 12/22/2014
11/12/2014	Information Sheet Doc ID# 2		
11/12/2014	Affidavit of Military Service Doc ID# 3		
11/12/2014	Citation Issued Doc ID# 4		
11/12/2014	Comment Doc ID# 5		
01/08/2015	Bench Trial (10:20 AM) (Judicial Officer Haggerty, Brian J)		

JUSTICE COURT NO. 2

PETITION: SMALL CLAIMS CASE

CASE NO. (Court use only)

214-2370V

F I L E D
NOV 12 2014 DIn the Justice Court, Precinct 2, El Paso County, Texas, ClerkPLAINTIFF Michael Buck

VS.

DEFENDANT(S): Terry Sosa

Defendant(s) contact info:

COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

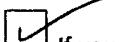
THE LOSS of MONEY SPENT, A LARGE NUMBER OF MONTHS AND TIME WASTED FOR REASONABLE MEDICAL TREATMENT FOR CANCER. PAIN AND SUFFERING OF FACE AND AMPUTATED NOSE. FORGET TO PROCESS DOCTOR'S CONSOLES, AND IGNORING PATIENCE'S CARE. LOSS OF NOSE BECAUSE DIDN'T ASSIST IN DOCTOR'S AND TRI-WEST CONSOLES. RECORDS SHOW BACK IN 2011-2012-2013

RELIEF: Plaintiff seeks damages in the amount of \$ 10,000, and/or return of personal property as described as follows (be specific): _____, which has a value of \$ _____.

Additionally, plaintiff seeks the following: _____

SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are:

EL PASO VA HEALTH CARE System 5001 N. Piedras El Paso, TX 79930.
1ST FLOOR INTEGRATED CARE Services (I.C.S.)

If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address: m.buck57@hotmail.comMICHAEL J. BUCK

Petitioner's Printed Name

Michael J. Buck

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

1608 S. Tennyson Dr.

Address of Plaintiff's Attorney, if any, or Plaintiff if none

Denison NM 88030

City State Zip

(575) 545-2028

Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none

JUSTICE COURT CIVIL CASE INFORMATION SHEET

JUSTICE COURT NO. 2

CAUSE NUMBER (FOR CLERK USE ONLY): 24-237VF I L E D
NOV 12 2014 D

STYLED

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of By George Jackson)

Clerk

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		2. Names of parties in case:
Name: <u>Michael J. Buck</u>	Telephone: <u>(575) 545-2028</u>	Plaintiff(s): <u>Michael J. Buck</u>
Address: <u>1608 S. Teesayson Dr.</u>	Fax: _____	Defendant(s): <u>Terry Sosa</u>
City/State/Zip: <u>Deming, NM. 88030</u>	State Bar No: _____	[Attach additional page as necessary to list all parties]
Email: <u>m.buck57@hotmail.com</u>		
Signature: <u>Michael J. Buck</u>		
3. Indicate case type, or identify the most important issue in the case (select only 1):		
<input type="checkbox"/> Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input type="checkbox"/> Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.
<input type="checkbox"/> Repair and Remedy: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input checked="" type="checkbox"/> Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.



BRIAN J. HAGGERTY
JUSTICE OF THE PEACE PRECINCT 2
4641 COHEN AVENUE, SUITE A
EL PASO, TEXAS 79924

JUSTICE COURT NO. 2

F I L E D
NOV 12 2014

By: _____ Clerk

CAUSE NO. 24-2370V

MICHAEL BUCK

Plaintiff

TERRY SASA

Defendant

IN THE JUSTICE OF THE PEACE #2
EL PASO COUNTY, TEXAS

AFFIDAVIT OF MILITARY STATUS

The Department of Defense strongly supports the enforcement of the Service members Civil Relief Act (SCRA), formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940. The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains official information regarding eligibility status of military personnel. You are strongly encouraged to obtain verification of the person's active duty status by contacting Department of Defense at the following link: <https://www.dmdc.osd.mil>. *Failure to obtain Military Service verification could result in provisions of the SCRA being invoked against you.* I understand that any false statements in this document are made under penalty of perjury, and that making a false statement is a violation of Federal Law as provided in Title 18 United States Code and is subject to both fine and imprisonment.

Before me, the undersigned Notary/Court Clerk/Justice of the Peace personally appeared the below-named

My name is MICHAEL BUCK
Plaintiff/Agent/Attorney

Being the plaintiff/agent/Attorney in the above case, I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

1. No defendant in this case is on active duty in the U.S. Military.

2. Defendant [insert name(s)] _____
is on active duty in the U.S. Military.

3. Defendant [insert name(s)] _____
has been deployed by the U.S. Military to a foreign country.

4. Plaintiff and the undersigned (if the undersigned is acting as agent of plaintiff) are
not able to determine whether any defendant is on active duty in the U.S. Military – except for any
defendant named in paragraph 2.

5. Plaintiff and the undersigned (if the undersigned is acting as agent of plaintiff) are not able to
determine whether any defendant who is in the U.S. Military has been deployed to a foreign country
– except for any defendant named in paragraph 3.

6. Defendant [insert name(s)] _____ has signed, while on active duty,
a separate written waiver of his or her rights under the U.S. Service Members Civil Relief Act (SCRA)
of 2003.

MICHAEL BUCK
Plaintiff/Agent/Attorney Signature

SWORN TO AND SUBSCRIBED before me this 12th day of November, 20 14 to
certify which witness my hand and seal.

M. Montero
Notary/Court Clerk/Justice of the Peace

EXHIBIT 2

THE STATE OF TEXAS
EL PASO COUNTY
214-00237-CV

MICHAEL BUCK,
1608 S Tennyson Dr
Deming Nm 88030

v.

TERRY SOSA
El Paso VA Health Care System
1st Floor Integrated Care Services ICS
5001 N Piedras
El Paso Tx 79930

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§ In The Justice Court
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§ Justice of the Peace, Precinct Two
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§ El Paso County, Texas
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NOTICE OF FILING OF NOTICE OF REMOVAL

Please take notice that on December 17, 2014, Federal Defendant TERRY SOSA filed in the Office of the United States District Clerk for the Western District of Texas, El Paso Division, a Notice of Removal of the above-entitled cause to the United States District Court for the Western District of Texas, El Paso Division. A copy of the Notice of Removal is attached.

Dated: December 17, 2014.

Respectfully submitted,

ROBERT PITMAN
UNITED STATES ATTORNEY



MAGDALENA G. JARA
Assistant United States Attorney
Texas State Bar No. 10573100
700 E. San Antonio, Ste. 200
El Paso, Texas 79901
Office (915) 534-6884
Facsimile (915) 534-3490

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of December, 2014, a true and correct copy of the foregoing instrument was mailed to Michael Buck, 1608 S. Tennyson Dr., Deming, NM 88030, Pro Se Plaintiff.


MAGDALENA G. JARA
Assistant United States Attorney